

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DIANA BEESE, Plaintiff, v. STATE FARM INDEMNITY COMPANY, et al. Defendants.	Civil Action No. 14-4905 (JLL) (JAD) REPORT AND RECOMMENDATION
--	--

JOSEPH A. DICKSON, U.S.M.J.

This matter comes before the Court, on its own motion, in connection with the Court's April 7, 2015 Order to Show Cause Why This Case Should Not Be Dismissed For Lack of Subject Matter Jurisdiction (the "OTSC"); (ECF No. 19); and

WHEREAS, in its April 7, 2015 OTSC, the Court set forth an explanation as to why, based on the content of Plaintiff's pleadings, it appeared that the Court lacked subject matter jurisdiction over this matter. (ECF No. 19 at 1-3). The Court incorporates that explanation herein by reference; and

WHEREAS the Court Ordered Plaintiff to file a brief, on or before April 21, 2015, "demonstrating why this matter should not be dismissed for lack of proper subject matter jurisdiction" (ECF No. 19 at 3); and

WHEREAS, by letter dated April 9, 2015, Plaintiff's counsel acknowledged that the Court is "now lacking subject matter jurisdiction" and requested that the Court remand the case to the New Jersey Superior Court (ECF No. 20); and

WHEREAS, despite Plaintiff's request, the Court notes that Plaintiff commenced this matter in federal court (i.e., it was not removed from the New Jersey Superior Court). This Court's only recourse, therefore, is to recommend that the District Court dismiss the case pursuant to Federal Rule of Civil Procedure 12(h)(3). See Cella v. Togum Constructeur Ensemleier En Industrie Alimentaire, 173 F.3d 909, 912-913 (3d Cir. 1999),

IT IS, THEREFORE, on this 13th day of April, 2015

RECOMMENDED that the District Court dismiss this matter without prejudice for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(h)(3).


Joseph A. Dickson, U.S.M.J.

cc. Honorable Jose L. Linares, U.S.D.J.